

APPROVED: Meeting No. 46-95

ATTEST: *Paula Jewell*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 40-95

August 7, 1995

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on August 7, 1995, at 7:35 p.m.

PRESENT

Mayor James F. Coyle

Councilmember Robert E. Dorsey

Councilmember James T. Marrinan

Councilmember Rose G. Krasnow

ABSENT

Councilmember Nina A. Weisbroth (Maternity Leave)

In attendance: City Manager Rick Kuckkahn, City Clerk Paula Jewell and City Attorney Paul Glasgow.

Re: City Manager's Report

1. Last week's National Night Out activities were a real tribute to the Mayor and Council's support of the program. Over twenty-eight participating neighborhoods took part in the annual event, and the Mayor and Council were able to visit many of the participating sites.

2. Mr. Kuckkahn thanked the Sister City Corporation (SCC) and the families involved in the Pinneberg baseball exchange. On August 4, a picnic and final game took place. The visiting Pinneberg Team seemed to enjoy themselves and the City was glad to host the event.

3. As a result of the Human Needs and Services questionnaire, over 600 replies have been received to date. The City will hold a drawing of those responses received and present a \$100 gift certificate to the winner. Residents are also encouraged to call in any comments to 309-3219.

4. The City's latest publication is a business guide to services and regulations in Rockville. It includes information on permits, licensing and regulations in the City, County, and State.

Re: Presentation of framed picture of  
"USS Rockville" to Mayor and  
Council.

Joe Baransky, National Treasurer and Emeritus of the Fleet Reserve Association introduced Branch President Bob Burns, Secretary Treasurer Alec Williams (also East Coast Region Treasurer), Chair of the Americanism Committee Ray Hughes, Narrator Roy Tremmor, and Chaplain Bill Glass. Mr. Baransky said that Rockville's Branch, the Fleet Reserve Association, Triangle 182, was 40 years old and had over 400 members. He said the USS Rockville, known as PCR 851, earned three battle stars in some of the most intense fighting during World War II. The Association then presented the Mayor and Council with a framed photo of the USS Rockville and performed the "Two Bell Ceremony," a ceremony written for and by all who sail in harm's way and honoring those who served and are now departed.

Re: Citizens Forum - This time is set  
aside to hear from any citizen  
who wishes to address the Mayor  
and Council.

1. Jan May, President, Twinbrook Citizens Association requested the Mayor and Council's approval and assistance with the restoration of a "Welcome to Twinbrook" circular wall which would serve as a gateway to the Twinbrook neighborhood. The Association is asking for the City's endorsement of the project, approval of the portion of the wall located on the right-of-way, assistance with getting approval from the shopping center owner, and obtaining advice from the City on an appropriate sign. A gateway existed until the 1980s when the tree within the wall died. The wall has since filled with overgrown weeds and other debris.

2. Eric and Deanna Jensen who formed the Twinbrook Garden Club to help improve the look of the Twinbrook area, spoke about some of the Club's ongoing projects and the welcome gateway. Mr. Jensen said that the Association would like the City to help provide the soil for the project and he said that TCA members would provide the labor.

The Mayor and Council agreed that the idea was feasible; staff was asked to follow up on the Association's proposal and bring back a plan for financing the project.

Re: Consent Agenda

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda Items were approved:

(A) Award of Bid #17-96  
To: Concrete General, Inc.  
Of: Gaithersburg, Maryland  
In the amount of \$131,430.00

For: Routine Maintenance of Regional  
Storm Water Management Facilities.

- (B) Award of Bid #18-96  
To: Cofu Contractors, Inc.  
Of: Vienna, Virginia  
In the amount of \$127,050.00

For: Cleaning, surface preparation, repairing and painting the interior of the Talbott Street water storage standpipe.

- (C) Award of Bid - Cooperative Purchase with the State of Maryland  
To: 3M Company  
Of: St. Paul, Minnesota  
In the amount of \$35,000.00

For: Cold plastic pavement markings for the FY96 roadway maintenance.

- (D) Award of Contract  
To: Eastman Kodak  
Of: Arlington, Virginia  
In the amount of \$24,354

For: Contract maintenance for the Kodak high volume copier.

- (E) Authorization to purchase bituminous concrete through the Metropolitan Area Government Rider Clause under Montgomery County Contract #15733 from the low bidders, F.O. Day, Genstar and A.H. Smith. The total cost will not exceed \$26,635.00.

This is a one-year requirement contract with option to renew an additional two years for materials used in asphalt concrete patching.

- (F) Acceptance of Text Amendment  
Application TXT95-0148, Mayor and Council of Rockville, Applicant.

This application proposes to amend the Zoning Ordinance to require final record plat application to be submitted in electronic media format.

- (G) Acceptance of Text Amendment  
Application TXT95-0150, PEPCO,  
Applicant.

This application proposes to amend the Zoning Ordinance to allow transformers and equipment lockers to be located above ground, and to allow relocated power transmission lines to be placed above ground.

Re: Approval for participation in the off-site SWM quantity control program resulting from the construction of 17 townhouses on a 1.59 acre site at 5910 Halpine Road in the Rock Creek drainage area, and the acceptance of a \$33,600 contribution to the off-site SWM fund.

The runoff from this site will be conveyed to the existing Twinbrook Metro SWM facility.

Environmental Engineer Susan Strauss said the development for 17 townhouses was similar to one developed three years ago. Water quality will be provided on site and participation in the regional program for quantity control is being requested. In response to a question from Mayor Coyle about the general condition of the facility, Ms. Strauss said the facility was owned by Montgomery County, incorporated within the Metro facility and had the capacity to handle the runoff. In addition, the stream below was armored with gabions which provided for the capacity to handle the increased runoff. Ms.

Ms. Strauss said that the County did not have to approve the participation because the City had an arrangement which worked both ways. If there were developments in Montgomery County where water came into the City, the contribution would be taken into the County program and the City would credit this to one of its facilities.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, participation in the off-site SWM quantity control program was approved and the contribution of \$33,600 to the off-site SWM fund was accepted.

Re: Approval for participation in the off-site SWM quantity and quality control program resulting from the construction of five single family homes on a 1.77 acre site at the proposed Monument Place in the Watts Branch drainage area, and the acceptance of a \$29,300 contribution to the off-site SWM fund.

The runoff from this site will be conveyed to the existing Rose Hill Falls Regional SWM facility.

Ms. Strauss explained that the development was on the former well sites of Rockville; the runoff left the site in three different directions, thus it would be difficult to provide on-site quantity control. Councilmember Krasnow said she had met with some of the neighbors near the property who expressed concern about the runoff because of water problems they experienced in their basements. Ms. Strauss said that staff had also met with the neighbors and the developers who agreed to build extended and existing storm drain systems so that the water would immediately be picked up and not cause any

increased runoff. Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, approval was given for participation in the off-site SWM quantity and quality control program, and the \$29,300 contribution to the off-site SWM fund was accepted.

Re: Acceptance of Text Amendment  
Application TXT95-0149, Duc  
Dom (Nelson Street/7-day  
Grocery), Applicant.

This application proposes to  
amend the Zoning Ordinance to  
allow by special exception the  
sale of alcoholic beverages for  
consumption off-premises in the  
C-1 Zone.

Chief of Planning Lisa Rother said that in 1980, a text amendment permitted on-sale alcoholic beverages in the C-1 Zone. These uses had previously been permitted by special exception but were made a permitted use because the Board of Appeals felt that their charge was to make land use recommendations and they were becoming increasingly involved in making social issue judgments pertaining to the sale of alcohol. Ms. Rother said at that time, there was a clear decision not to permit the sale of alcohol off-premises. In 1987, the C-1 Zone was fully considered; however was never considered as an addition. Based on the facts, staff was recommending that the application not go forward because it was felt that the applicant proposed a special exception which gave the City another level of control. When staff reviewed the application, they saw no change in circumstances that would change the City's position. Ms. Rother said that if Mayor and Council felt differently and would like the application to go forward, staff would process it accordingly. Ms. Rother suggested that the entire application fee be

refunded to the applicant if the Mayor and Council decided not to forward the application for processing.

Mayor Coyle said he felt additional information and discussion was needed on the permitted table of uses in the context of the types of shopping centers. City Attorney Glasgow said that the Mayor and Council could either accept the application or defer the item to their next meeting with the request that staff bring forth additional information on the C-1 Zone and the sale of alcoholic beverages, off-premises.

Councilmember Krasnow said she agreed that off-site sales in the neighborhood shopping centers would tend to create a situation where people might loiter and cause problems.

Councilmember Marrinan said that when the issue was last visited in 1987, a number of civic associations had voiced their opinion about the issue. He said it would be important to make sure civic associations knew about the application and to reinstate the opinion of the neighborhood associations.

Patrick Smith, Attorney for the Applicant said that the application before the Mayor and Council was for acceptance only and was not a hearing on the merits of the case. He said in 1980, three locations were grandfathered in for the sale of alcoholic beverages when on/off premises were taken out of the C-1 Zone. When C-1 Zones were looked at in 1987, the sale of alcohol was not included. He said that the makeup of the neighborhood had changed significantly and he felt that the sentiment of the neighborhood would be in favor of the application. Upon motion of Councilmember Marrinan, Text Amendment Application TXT95-0149 was accepted.

Re: Adoption of Resolution to  
Authorize Execution of an  
Annexation Agreement.



Annexation Petition X-110-91,  
Field Farms Ltd. Partnership,  
Frederick Road, Ltd. Partnership  
and William I. King, Petitioners.

To establish certain terms and  
conditions to guide the planning,  
use and development of the King  
Farm Property.

Resolution No. 14-95

Mr. Kuckkahn suggested that all four items pertaining to the annexation (Items Nos. 9 through 12) be discussed as a compound subject and the Mayor and Council could then vote on each matter separately. Without objection, this order of process was followed. Mr. Kuckkahn noted the following:

The annexation is consistent with the City's policy in expanding its corporate limits and includes the agreed upon urban growth boundaries. Mr. Kuckkahn said that the Mayor and Council's participation and instructions throughout the process, as well as the public hearing process and reviews from other government agencies, have been a great help. Having the land in the City gave the City control over the public facilities and allows citizens direct participation in the planning and design process. It gave the City the ability to program the public facilities as well, and generate future revenues for the City for many years to come. Enhancement and protection of the natural environment and protecting and adding to the State's forest land was critically important and ordinances enacted by the City will ensure that forest land is in hand. The annexation advances efforts in this area with 66 acres of forest land creation with 47 acres on site and 19 permitted off site. Storm water management ponds and facilities are called for in the agreement to protect stream valleys from erosion and improve water quality. The flood

plains in environmental corridors will be a prominent feature of the development. Forty acres of required open space is provided along with three new park sites which will be dedicated to the City for a total park land allocation of 45 acres. County schools will be located adjacent to and as part of the park site to ensure efficient use of recreational opportunities. Provisions have been made for a modest fire station and a library facility. There is also a requirement for a future transitway as an extension of the Shady Grove Metro station to provide regional level light rail service. Local mass transit options will also be provided to serve adjoining neighborhoods.

Affordable housing is part of the annexation agreement to provide the potential for more moderately priced dwelling units (MPDUs) in the development alone and there is potential for a significant influx of MPDUs. Single family detached housing is also an element to provide a transition between existing single family neighborhoods and the transit oriented housing. More affordable housing will be created on the development in the form of somewhat higher density multi-family housing and detached single family housing. Public and private funding is provided to combine financing of infrastructure including off-site road improvements and transportation management planning. Mr. Kuckkahn pointed out that long and short term financial burdens on current residents was also considered, through the budget process, the Mayor and Council insisted on a requirement that existing residents (including businesses) would be protected from adverse impacts of added tax burdens as the City expanded. To assure long term financial stability, the development balances land uses with 3 million square feet of employment; 100,000 square feet of neighborhood commercial development and 3200 units of market

rate housing. Private roads and a modern street system will provide efficient delivery of City services.

The Mayor and Council discussed the following points:

Regarding the MPDUs and the total number of units, Ms. Krasnow said there was much debate on whether to require 3200 units (to include 350 MPDUs) or 3600 (to include 400 MPDUs), and she said the current wording seemed to make the MPDUs an option rather than a requirement. Mr. Glasgow said that the developer, Helios/Towle was happy to build in a requirement for either 3200 or 3600 MPDU components.

Barbara Sears, Attorney for Helios/Towle confirmed that if they provided 3200 units, they would provide the MPDUs; however, they wanted to leave an option open for coming in during the time of the Concept Plan, to request 3600 units (to include 400 MPDUs and 3200 market rate units and 350 of which will be moderately priced).

Councilmember Krasnow asked that Ms. Sears' statement be incorporated as language in the agreement. Ms. Krasnow also asked that language be built in regarding the timing of constructing the MPDUs; she said that the units should be constructed with each phase of development instead of waiting until all of the market price units were built. Ms. Sears confirmed that a staging plan would come forth at the time of the Concept Plan for the Mayor and Council's approval.

Referring to the staging of public improvements and the transit way to be developed in Phase 7, years 31-35; Ms. Krasnow said she was concerned about everything being dependent on the transit way and she asked if any discussions with the County took place to move this phase up. Ms. Sears said that information about the transit way was provided originally through the old County Office of Planning Policies, and reflected what

the County originally anticipated in actual funding of construction of a rail system. The developer would be providing its own transit management program for the property since the County did not anticipate a final solution for some time. Ms. Krasnow also commented that with the promotion of a transportation demand management district, it would be nice to see a day care center on the King Farm site since the community would be so residential in nature with a great number of children.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Resolution authorizing the Execution of an Annexation Agreement was adopted.

Re: Adoption of Resolution to Enlarge the Corporate Boundaries - Field Farms Limited Partnership, Frederick Road Limited Partnership, William I. King, Dora Malasky, et al Trust, and the State Highway Administration.

Proposed annexation and O-3, Restricted Office zoning for the 441 acre King Farm property and annexation and C-2, General Commercial zoning for the 2-acre Malasky Property.

Resolution No. 15-95

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the Resolution introduced in 1991, was amended. Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the Resolution to enlarge the Corporate Boundaries was adopted, as amended.

Re: Introduction and Adoption of Ordinance to Adopt Zoning Map. Annexation Petition X-110-91, Field Farms Ltd. Partnership, Frederick Road Ltd. Partnership and William I. King, Petitioners.

To establish zoning of approximately 486 acres of newly annexed land located north of Gude Drive and west of Frederick Road (MD Rt. 355).

Ordinance No. 8-95

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the layover period was waived. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Ordinance to adopt the Zoning Map for Annexation Petition X-110-91, was adopted.

Re: Introduction and Adoption of Ordinance to Grant Text Amendment Application TXT95-0147, Mayor and Council of Rockville, Applicant.

This ordinance will amend the Comprehensive Planned Development (CPD) Procedure.

Ordinance No. 9-95

Ms. Krasnow said that she could not recall any local restaurants that did not have a drive-through feature and she asked why this was prohibited. Ms. Rother explained that what was previously considered, Restaurant Class I, was changed and the three categories corresponded to what was previously a Restaurant Class I which was no drive-through. She agreed that the restaurant categories needed to be reviewed. She also

noted that the Ordinance primarily changed the City's restaurant definitions in the CPD. Ms. Krasnow pointed out the reduction of parking from 45 to 25 percent and she said the term "proposed transit way" gave her pause for thought. She emphasized that the CPD needed to take this into account and the City needed to be careful about reducing parking when it was not sure whether a transit way would be in existence. Councilmember Marrinan reinforced Ms. Krasnow's point and said the record needed to be clear on the issue and the City needed to encourage that some light rail transit way development occur.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the item was introduced. Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the layover period was waived. Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Ordinance to Grant Text Amendment Application TXT95-0147 was adopted.

Re: Discussion and Instructions to  
Staff - Map Amendment  
Application MAP95-0062,  
Montgomery County  
Government, Applicant.

For a zoning change from RE,  
Residential Estate to R-75, One-  
Family Detached, Residential for  
a 4.15 acre property at the end  
of Curtis Place, just north of  
Wootton Parkway.

Mayor Coyle explained that the parcel was known as the Climax Forest and was part of the land swap with Montgomery County who now was desiring to move forward with rezoning in order that they can get the land out for bid and development.

Eric Larsen, Montgomery County Department of Housing and Community

Development said the County was in the process of preparing preliminary plans for a second parcel which would be presented to the community sometime in September. Staff was instructed to proceed with an ordinance effecting a change for rezoning the property to the R-75 zone.

Re: Discussion and Instructions to  
Staff - Exploratory Application  
for Residential Townhouse  
Development Application  
RTH95-0016, Tower Dawson  
Limited Partnership, Applicant.

For 40 residential townhouse  
units on Monroe Street, north of  
Dogwood Park.

(Councilmember Krasnow recused herself from the discussion and vote on this matter as she has dealt with Tower Oaks through her homeowner association, New Mark Commons.)

Mayor Coyle noted that the Mayor and Council conducted a site visit with members of Tower Dawson and were able to understand some of the issues. Regarding tree preservation, some trees on the frontage of the property would have to be removed; however trees on the back of the property would be well preserved because of the distance from the end of the closest building to Cabin John Parkway. Regarding traffic generation, the Mayor said that the road could handle the morning and evening trip generations and improvements would be made to the street so the road would not be over-taxed.

William Kominers, Attorney representing Tower Dawson noted that parking was currently permitted on the street now and it would be improved with the installation of sidewalks so that residents would not have to walk in the street.

Mayor Coyle said that another issue discussed was the straightening out of the street as part of the project development. Mr. Kominers noted that the developer proposed softening the curb at the southwest edge of the property, and that the resulting new alignment of the road and how the existing pavement was utilized were issues that would be worked out at the detailed application stage. Stormwater management was also an issue that would be worked out during the detailed application stage. Mr. Kuckkahn added that staff would review the issue of lighting from the baseball field at Dogwood Park to see if it can be directed in a more efficient manner so that lighting does not spill onto existing or new development. Staff was instructed to follow up on the recommendations made by staff and the Planning Commission and bring forth a Resolution approving the exploratory application.

Re: Adoption of Ordinance to amend Chapter 1, Section 1-8 of the Rockville City Code entitled "Application of County."

This amendment would permit Chapter 27 of the Montgomery County Code (1984) entitled "Human Relations and Civil Liberties" to apply within the City.

Ordinance No. 10-95

Without objection, discussion on both Ordinances was combined. Mr. Kuckkahn said that the amendments would make the applications of County law as it



pertained to the employment portion of the ordinance, apply to the City so that human rights cases could be referred to the County. He said that the first case was mediated to a successful conclusion, and the ordinance would make the Commission the first option to resolve conflicts in the residential and business community. A mediation person would be involved with intake resolution of complaints, making referrals as appropriate to the County and State agencies, and tracking those issues through the agencies. The City would maintain the housing and accommodations caseload which would be processed by Rockville staff.

Mr. Kuckkahn said that the Commission was committed to becoming proactive in the community through training for realtors, workshops in cultural diversity and affirmative action, mediation training for the County, Chamber partnerships, civic association involvement, student interaction to reduce violence, and promoting citizen access to the Commission. He noted that a number of Commission members were already trained in mediation.

Mayor Coyle noted there were many comments received from citizens regarding the appeals process. He also asked if there was any liability to the City since the Commission members were taking a quasi-legal role in mediation. Regarding the appeals process, Assistant City Attorney Dave Podolsky said that the process allowing the right of a party to appeal had been amended to allow either a complainant or a respondent to appeal a decision of the Commission to the Circuit Court. A provision was also included where an appeal from a Circuit Court decision could be taken by the Commission in cases where Circuit Court ruled the Commission wrong in its determination; but

perhaps the parties involved did not have the financial means or the desire to appeal it further.

Regarding the Mayor's point about Commission members and their liability or protection as representatives of City government, Mr. Podolsky said that as volunteers, the Commissioners would be protected under the Local Government Tort Claims Act and the City would provide a defense for any claims against them if they're acting in the capacity as agent for the City.

Mayor Coyle noted that the City was maintaining some of the caseload in the housing area, and he said the City would need a substantial public education program to inform citizens of the Commission's role.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Ordinance was adopted.

Re: Adoption of Ordinance to amend  
Chapter 11 of the Rockville City  
Code entitled "Human Rights."

Ordinance No. 11-95

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the amendments made to the Ordinance since introduction were approved. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the ordinance, as amended was adopted.

Re: FYI/Correspondence

1. Councilmember Marrinan noted Estelle Berberian's \$10,000 donation to the Senior Center. Mr. Marrinan said Ms. Berberian's donation was a remarkable gesture for an individual citizen, and he commended her generosity. Mayor Coyle noted that Bill

Stayeas, Proprietor of the Seven Locks Barbershop had sent a \$500 donation to the Senior Center; the Mayor asked that staff formally acknowledge all donations and inform those donating how their contributions will be used.

2. Regarding Town Center Improvements, Councilmember Marrinan announced that the North end of Maryland Avenue was open. He commended the developer and City inspection staff on the quality of work done on the sidewalks and streets.

Re: New Business

There being no "New Business" before the Mayor and Council, Mayor Coyle moved on to the next portion of the agenda.

Re: Next Meeting

The Mayor and Council will be in recess during the month of August and will reconvene in General Session on September 11, 1995. Mayor Coyle congratulated the Council on its many excellent accomplishments over the past few months.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 9:50 p.m. to reconvene in General Session on September 11, 1995.